IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

**APPEAL FROM ORDER NO.367 OF 1999**
**IN**
**NOTICE OF MOTION NO.5103 OF 1998**
**IN**
**L.C.SUIT NO.5859 OF 1998**

**WITH**

**APPEAL FROM ORDER NO.368 OF 1999**
**IN**
**NOTICE OF MOTION NO.5104 OF 1998**
**IN**
**L.C.Suit NO.5858 OF 1998**

The Municipal Corporation of Greater Mumbai ).. Appellants

Versus

Mewalal Hiralal Shah ).. Respondent

Mr.J.Xavier for the Appellants.

Mr.V.S.Lonkar for the Respondent.

**CORAM: SMT.NISHITA MHATRE, J.**

**DATED: 4TH OCTOBER 2004**

**P.C.:**

. These Appeals From Orders have been filed against the order of the trial Court permitting reconstruction of the suit structure. After the Appeals were admitted, there was a stay of the impugned order dated 20th April 1999. However, by Civil Application No.4009 of 1999 and Civil Application No.2766 of 1999, the Respondent has sought to vacate the interim stay granted by this Court by stating that the Respondent has already reconstructed the premises prior to the stay being granted by this

Court on 20th April 1999.

2. In view of the letter dated 20th April 1999 at Exhibit "D" to Civil Application No.4009 of 1999 stating that the reconstruction was completed between 15th April 1999 and 19th April 1999, nothing survives in the Appeal From Order and the Civil Applications.

3. The Respondent has given an undertaking to the Trial Court that in the event he fails in the Suit, he would demolish the reconstructed structure immediately without claiming any damages and/or compensation. This undertaking will continue during the pendency of the Suit.

4. The Respondent, however, will maintain status quo as of today during the pendency of the Suit. I am informed that the evidence on behalf of the Plaintiff is being led in the Suit. Hence, the status quo order.

5. For the foregoing reasons, Appeal From Order disposed of accordingly.

6. In view of the disposal of the Appeal From Order, nothing survives in Civil Application No.4009/1999 and 2766/1999 and the same are disposed of accordingly.

7. Parties may be provided an authenticated copy of this order.